

AMENDED IN ASSEMBLY MAY 2, 2002
AMENDED IN ASSEMBLY APRIL 18, 2002
AMENDED IN ASSEMBLY JANUARY 9, 2002
AMENDED IN ASSEMBLY JUNE 27, 2001
AMENDED IN SENATE JUNE 6, 2001
AMENDED IN SENATE MAY 3, 2001
AMENDED IN SENATE APRIL 19, 2001

SENATE BILL

No. 489

Introduced by Senator Romero

(Coauthors: Assembly Members Alquist, Kehoe, La Suer, and Salinas)

February 22, 2001

An act to add Article 6.6 (commencing with Section 25169.5) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 489, as amended, Romero. Hazardous waste of concern: handling: transportation.

(1) Under existing law, it is unlawful for any person to carry on, or engage in, the transportation of hazardous waste unless the person holds a valid registration issued by the Department of Toxic Substances Control. Existing law provides that a person who holds a valid registration issued by the department is a registered hazardous waste transporter. Existing law requires any person generating hazardous

waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest prior to the time the waste is transported or offered for transportation and to submit the manifest to the department. Existing law requires any application to use and operate a hazardous waste facility to include a specified disclosure statement, but exempts from this requirement a person operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption.

A violation of the laws regulating hazardous waste is a crime.

This bill would require the department, by July 1, 2003, to adopt a list of hazardous wastes of concern, which would include hazardous waste that the department determines requires special handling restrictions and requirements as specified, based on its potential to be used as a weapon of mass destruction.

The bill would require any person handling ~~or transporting~~ any hazardous waste of concern on and after July 1, 2003, to comply with various requirements, including requiring a registered hazardous waste transporter or the owner or operator of a hazardous waste facility who discovers that any amount of hazardous waste of concern is missing during transportation or storage to immediately notify the department and to later report the discrepancy to the department in writing. The bill would require the department to notify the Department of the California Highway Patrol if the department determines that any hazardous waste of concern reported is missing and presents a potential risk to public safety. The bill would authorize the Department of the California Highway Patrol to investigate a hazardous waste facility, upon the department's request, for a criminal investigation regarding missing hazardous waste *of concern*.

The bill would also require any person loading, transferring, or unloading hazardous waste of concern to monitor those operations using electronic video surveillance, as specified, and would require a registered hazardous waste transporter to secure the cargo portion of any vehicle transporting hazardous waste of concern during the transportation of those hazardous wastes in the state.

The bill would require any person applying for a hazardous waste facilities permit or other grant of authorization to use and operate a hazardous waste facility that would handle hazardous waste of concern, or a person applying for registration as a hazardous waste transporter who would transport that waste, to submit a disclosure statement to the department. The bill would also require any person owning or operating



a hazardous waste facility that handles a hazardous waste of concern and any registered hazardous waste transporter who transports a hazardous waste of concern to annually submit a disclosure statement to the department by July 1, 2003, and upon the request of the department thereafter. The department would be required to conduct a background check, as defined, on or before 180 days after receiving a disclosure statement.

The bill would require the department to adopt emergency regulations, prior to July 1, 2003, to implement the bill’s requirements and would require that the regulations be filed with, but not be repealed by, the Office of Administrative Law and remain in effect until revised by the department. The bill would require the regulations to be consistent with the federal Hazardous Materials Transportation Authorization Act of 1994, except as specified.

Since a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6.6 (commencing with Section 25169.5)
2 is added to Chapter 6.5 of Division 20 of the Health and Safety
3 Code, to read:

4
5 Article 6.6. Hazardous Waste of Concern and Public Safety
6 Act

7
8 25169.5. For purposes of this article, the following
9 definitions shall apply:

10 (a) “Background check” means a criminal history background
11 check obtained from fingerprints submitted by the person
12 identified in the disclosure statement. The background check shall
13 include any previous name or names of the person submitting the



1 disclosure statement, or, if the person submitting the disclosure
2 statement, as defined in Section 25112.5, is a business concern,
3 any officer, director, or partner of the business concern. The
4 department shall submit the fingerprints to the Department of
5 Justice, which shall, in turn, submit the fingerprints to the Federal
6 Bureau of Investigation to obtain a state and national criminal
7 record history check. Fingerprints may be obtained using the
8 Department of Justice's electronic fingerprint network.

9 (b) "Hazardous waste of concern" means a hazardous waste
10 listed as a hazardous waste of concern by the department pursuant
11 to Section 25169.6.

12 25169.6. On or before July 1, 2003, the department shall adopt
13 by regulation, and revise when appropriate, a list of hazardous
14 wastes of concern. The list shall include, at a minimum, any
15 hazardous waste that the department determines requires special
16 handling restrictions and requirements, beyond those restrictions
17 and requirements generally applicable to hazardous wastes,
18 because of the potential for a hazardous waste of concern to be
19 intentionally and effectively used as a weapon of mass destruction.

20 25169.7. On and after July 1, 2003, all of the following

21 ~~25169.6.—Prior to March 1, 2002, the department shall adopt~~
22 ~~a list of those extremely dangerous hazardous wastes that the~~
23 ~~department considers to be potentially explosive or incendiary~~
24 ~~hazardous waste or any hazardous waste that could be used for the~~
25 ~~chemical or biological contamination of air or water, including the~~
26 ~~amount at which that hazardous waste presents a potential threat~~
27 ~~to public safety. The department shall include, at a minimum, any~~
28 ~~hazardous waste that meets the definition of extremely hazardous~~
29 ~~waste, as specified in Section 25115.~~

30 ~~25169.7.—On and after March 1, 2002, all of the following~~
31 ~~requirements, including any regulations adopted by the~~
32 ~~department pursuant to Section 25169.8, shall apply to any person~~
33 ~~handling any hazardous waste of concern:~~

34 (a) (1) If a registered hazardous waste transporter or the owner
35 or operator of a hazardous waste facility discovers that any amount
36 of any hazardous waste of concern is missing during transportation
37 or storage, the hazardous waste transporter or the owner or
38 operator shall immediately notify the department and report the
39 discrepancy to the department in writing by letter within five days
40 after the shipment.



1 (2) If the department determines that any hazardous waste of
2 concern reported pursuant to paragraph (1) is missing and presents
3 a potential risk to public safety, the department shall notify the
4 Department of the California Highway Patrol.

5 (3) The Department of the California Highway Patrol may
6 inspect any hazardous waste facility at the department's request,
7 to perform a criminal investigation of any missing hazardous
8 waste *of concern*.

9 (b) Any person loading, transferring, or unloading hazardous
10 waste of concern shall monitor those operations using electronic
11 video surveillance. The person shall maintain those electric
12 images, and make them available to the department, for at least 30
13 days following the successful completion of the transportation of
14 that ~~extremely dangerous hazardous waste~~ *hazardous waste of*
15 *concern*.

16 (c) A registered hazardous waste transporter shall secure the
17 cargo portion of any vehicle transporting hazardous waste of
18 concern during the transportation of that hazardous waste in the
19 state.

20 (d) (1) Notwithstanding Section 25200.4, any person applying
21 for a hazardous waste facilities permit or other grant of
22 authorization to use and operate a hazardous waste facility that
23 would handle hazardous waste of concern shall submit to the
24 department a disclosure statement containing the information
25 specified in Section 25112.5.

26 (2) On or before July 1, 2003, and after July 1, 2003, at any time
27 upon the request of the department, any person owning or
28 operating a hazardous waste facility that handles any hazardous
29 waste of concern shall submit to the department a disclosure
30 statement containing the information specified in Section 25112.5.

31 (3) Any person applying for registration as a hazardous waste
32 transporter who will transport hazardous waste of concern shall
33 submit to the department a disclosure statement containing the
34 information specified in Section 25112.5.

35 (4) On or before July 1, 2003, and after July 1, 2003, at any time
36 upon the request of the department, any registered hazardous
37 waste transporter who transports any hazardous waste of concern
38 shall submit to the department a disclosure statement containing
39 the information specified in Section 25112.5.



1 (5) Whenever any change pertaining to the information
2 required to be contained in a disclosure statement filed pursuant to
3 paragraph (3) or (4) occurs after the date of the filing of the
4 disclosure statement, the transporter shall provide the updated
5 information in writing to the appropriate agency within 30 days of
6 the change.

7 (6) On or before 180 days after receiving a disclosure statement
8 pursuant to this subdivision, the department shall conduct a
9 background check, based on the information provided in the
10 disclosure statement.

11 25169.8. (a) On or before July 1, 2003, the department shall
12 adopt emergency regulations to implement this article, with the
13 concurrence of the California Highway Patrol.

14 (b) The regulations adopted by the department pursuant to this
15 section shall be adopted as emergency regulations in accordance
16 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
17 Division 3 of Title 2 of the Government Code, and for the purposes
18 of that chapter, including Section 11349.6 of the Government
19 Code, the adoption of these regulations is an emergency and shall
20 be considered by the Office of Administrative Law as necessary
21 for the immediate preservation of the public peace, health and
22 safety, and general welfare. Notwithstanding Chapter 3.5
23 (commencing with Section 11340) of Part 1 of Division 3 of Title
24 2 of the Government Code, including subdivision (e) of Section
25 11349.1 of the Government Code, any emergency regulations
26 adopted pursuant to this section shall be filed with, but not be
27 repealed by, the Office of Administrative Law and shall remain in
28 effect until revised by the department.

29 (c) Except as provided in subdivision (d), in adopting
30 regulations pursuant to this section, the department shall ensure
31 that the regulations are consistent with the Hazardous Materials
32 Transportation Authorization Act of 1994 (Chapter 51
33 (commencing with Section 5101) of Title 49 of the United States
34 Code, and thereafter amended.

35 (d) If the department determines that a requirement imposed
36 pursuant to Section 25169.7 could be preempted by the Hazardous
37 Materials Transportation Authorization Act *of 1994* pursuant to
38 Section 5125 of Title 49 of the Code of Federal Regulations, the
39 department shall apply to the Secretary of Transportation for a



1 waiver of preemption pursuant to subsection (e) of Section 5125
2 of Title 49 of the United States Code.

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

